



# Promotion of Access to Information

June 2015

## Monthly Newsletter

### Promotion of Access to Information Act (PAIA)

The PAIA came into effect in 2000 to give effect to the constitutional right of access to any information held by the state, as well as information held by another person that is required for the exercise or protection of any right.

#### Requirement:

PAIA requires every public body, as well as many private bodies, to produce a manual which contains information on how to use PAIA to access their own records.

#### Public Bodies:

Section 14 of PAIA requires all public bodies to publish a manual in at least three official languages that assists information seekers to make requests for information from the body concerned.

The manual must contain the following useful information:

- Mandate
- Contact details
- Description of PAIA Section 10 Guide
- Categories of records held
- Automatically available information
- Services of the public body
- Recourse

All public bodies must make the manual easily available and this can be done in the following ways:

- By making a copy available at every office of that particular public body during office hours;
- By making available the manual on the website, if any, of the public body

#### Private Bodies:

The Act requires ALL private bodies to compile a manual. However, this general provision is subject to the Minister's ability to exempt certain private bodies or categories of bodies from having to publish a manual. At present, the Minister has exempted ALL private bodies from having to compile manuals until 31 December 2015 except the following:

- The entity is not a private body as defined by the Companies Act

- Is a private company which operates within the sectors as in the Table below and has 50 or more employees; or
- Has a total annual turnover that is equal or more than the applicable amount as per the Table below.

Industry	Annual Turnover
Agriculture	R2 million
Mining and Quarrying	R7 million
Manufacturing	R10 million
Electricity, Gas and Water	R10 million
Construction	R5 million
Retail & Motor Trade & Repair Services	R15 million
Wholesale Trade, Commercial Agents & Allied Services	R25 million
Catering Accommodation & Other Trade	R5 million
Storage and Communication	R10 million
Finance and Business Services	R10 million
Community, Special & Personal Services	R5 million

All private bodies that are required to compile a manual must make the manual easily available. This can be done in the following ways:

- By making a copy available for inspection at every office of that particular private body during office hours. A private body may not charge a fee for inspection;
- By making the manual available on its website.

In terms of section 51, the head of a private body must:

- Update any material changes on the manual on a regular basis;
- Make the manual available as prescribed by the Act at the company offices and on their website;
- Must annex a request form (*PAIA Form C*) to the manual and also make request forms available on the website and at all company premises.

**Note:** The PAIA cannot be used to obtain records for use during civil or criminal legal proceedings, including after the commencement of such proceeding, and if the production or access to the record for this same purpose is protected by law.